

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

BARRY ELLERBEE,

Plaintiff,

VS.

CIVIL ACTION FILE NO
5:09-CV-00159-HL

COACHWORKS HOLDINGS, INC.,:
a Georgia Corporation, DT CARSON :
ENTERPRISES, INC., a foreign :
Corporation transacting business in :
Georgia, DALE CARSON, :
individually, and TERRI CARSON, :
individually, :

Defendants.

**CONSENT MOTION TO STAY DISCOVERY PENDING MEDIATION
AND MOTION FOR LEAVE TO AMEND SCHEDULING AND
DISCOVERY ORDER**

COMES NOW Barry Ellerbee (“Plaintiff”) and Coachworks Holdings, Inc., DT Carson Enterprises, Inc., Dale Carson and Terri Carson (“Defendants”) (collectively referred to as the “Parties”), and hereby submit their Consent Motion to Stay Discovery Pending Mediation and Motion for Leave to Amend Scheduling and Discovery Order (“Consent Motion to Stay Discovery”). The Parties hereby respectfully request that discovery be stayed in the instant case until such time as

the Parties have engaged in mediation, which the Parties have agreed shall occur prior to July 31, 2010. In addition, the parties request that the deadlines in currently set forth in the Scheduling and Discovery Order be amended as follows:

- a. All amendments to the pleadings shall be filed no later than November 15, 2010;
- b. All dispositive motions shall be filed no later than December 15, 2010;
- c. Discovery shall be completed by December 1, 2010;
- d. Plaintiff shall identify experts by September 1, 2010;
- e. Defendants shall identify experts by November 1, 2010.

The modification of these deadlines provides the Parties with sufficient time to conduct discovery and prepare any necessary motions and/or amendments after the conclusion of mediation and the re-opening of discovery. The reasonableness of this request is apparent when considering that a stay would allow both Parties, and the Court, to avoid the unnecessary burdens and expenses of engaging in potentially unnecessary and wasteful discovery, which is likely to be extensive due to the various medical issues raised in this case. Further, the Parties agree that they will not be prejudiced should discovery be stayed pending mediation as discovery

can reopen and proceed in orderly fashion after the mediation has occurred. A stay of discovery is therefore the most efficient and judicially economical course of action at this stage in the proceedings.

Accordingly, the Parties respectfully request that this Court exercise its discretion to stay discovery and relieve both parties from having to exert additional resources until after the mediation has occurred; but the parties agree that the mediation must occur prior to July 31, 2010. See, Landis v. North Am. Co., 299 U.S. 248, 254, 57 S.Ct. 163, 166, 81 L.Ed. 153 (1936) (holding that the court has broad discretion and inherent power to stay discovery until preliminary questions that may dispose of or narrow the case are determined). A proposed order granting the instant Motion to Stay is attached hereto as Exhibit 1 for the Court's consideration.

CERTIFICATE OF COMPLIANCE WITH RULE 5.1B

Pursuant to Local Rule 7.1(d), N.D. Ga., I hereby certify that the above and foregoing brief has been prepared using Times New Roman font, size 14 pt., as approved by the Court in Local Rule 5.1B, N.D. Ga.

Respectfully submitted this 24th day of May, 2010.

Prepared by:

/s/ Tanya Andrews Tate

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